

**KNOW HOW TO MAKE
YOUR WILL**

KNOW HOW TO MAKE YOUR WILL

How to Put Your Affairs in Legal Order

BY
A BARRISTER

For the Man or Woman with little
as well as for those possessed of
great wealth

A complete Guide for Executors and
Administrators of Estates

WITH MANY
SPECIMEN WILLS
AND
A SPECIAL SECTION
APPERTAINING TO
SCOTS LAW



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CHAPTER I

	<i>Page</i>
IMPORTANCE OF MAKING A WILL	
Married women	11
Intestacy	11
Forfeit to the State	12
Letters of Administration	12
Infant children	13
Executors	14
Widow as executor	14
Banks as Trustees	15
Invalids	15
Legal guardians	16
Protection of business goodwill	16
Codicils	17
Investments	18
Disposal of your property	18

CHAPTER II

WHAT TO DO, AND WHAT NOT TO DO	
Minimum age for will	19
Members of Armed forces	19
Date of will	19
Signing your will	19
Presence of witnesses essential	19
Blind testators	20
Illiterate testators	20
Disqualified witnesses	20
Several sheets of paper used	21
Alterations in wills	21
Simple language advisable	22

CONTENTS

	Page
Effect of testator's marriage	23
Cancelling a will	23
Numerals or words	23
Address and occupation	23
Executors and trustees	24
Public Trustee	25
Accumulation of income	25
Residuary legatee	26
Servants	26
Death of a beneficiary	27
Testator's children	27
Immediate cash payment to widow	27

CHAPTER III

DEATH DUTIES	29
Small estates	29
Funeral expenses	30
Property liable to duty	30
Table of Estate Duty rates	30
Special provisions	31
Real estate	31
Personal estate	31
Value of property	32
Agricultural property	32
Gifts before death	32
Charitable bequests	32
Exemptions from duty	32
Works of Art	33
Scientific collections	33
Gifts to the Nation	33
Timber	33
Duty upon a second death within a limited time	33
How to pay Death duties	34
Where to pay duties	34

CONTENTS

7

CHAPTER IV

	<i>Page</i>
SPECIMEN WILLS COVERING SMALL ESTATES	36
Widow only	36
Widow and children	36
Bachelor	39
Married women	40
Marriage contemplated	41
Unmarried women	41
Will on several sheets of paper	42
Illiterate testator	43
Blind testator	43
Will signed on wedding day	44

CHAPTER V

SPECIMEN WILLS COVERING LARGER ESTATES	45
Married man with daughters	45
Widow leaving separate property of her own	53

CHAPTER VI

CODICILS FOR VARIOUS PURPOSES	57
Appointing additional executor	57
Fresh executor in place of one named in will	57
New executor in place of one who is dead	58
Appointing executors when none were mentioned in will	58
Revoking a legacy	59
Married daughter's share in Trust	59
Concerning a loan made to legatee	60
Second or Subsequent Codicil	60
Revocation of will	60

CHAPTER VII

	<i>Page</i>
PROBATE AND DISTRIBUTION OF ESTATE	61
Responsibility for funeral arrangements	61
Executors' duties	61
Insurance of property by executors	62
Servants no longer required	62
Inventory of all property	62
Inland Revenue authorities	62
Expenses of executors	62
Remuneration of executors	62
Goodwill of testator's business	63
Bank pass-book	63
Overdraft at Bank	63
Stocks and shares	64
Insurance on testator's life	64
Estimating value of securities	64
Money owing to deceased	65
Book debts of testator's business	65
House property and land	65
Leasehold property	65
Freehold property	65
Partnerships	66
Advertising for claims	66
Mourning	66
Statute barred debts	67
Mortgages	67
Probate	68
District Registries	68
Court fees	68
Bank to be notified	70
Receipt given by executor	70
Compromising debts due	70
Selling the property	70
Calling in all debts owing	70
Annuities	71
Trustee investments	71
Articles bequeathed	71

CONTENTS

9

	Page
Debts due to executors	71
Residuary account	72
Twelve months allowed for winding up estate	72
<i>London Gazette</i> advertisement	72

CHAPTER VIII

DISPUTING A WILL	74
Forged will	74
Will not duly attested	74
Testator of unsound mind	74
Undue influence	74
Disputing a will	74
Order for maintenance of dependants	75

CHAPTER IX

WHAT TO DO WHEN THERE IS NO WILL OR NO EXECUTOR	77
Intestacy	77
Administrator to be appointed	77
Husband and wife	78
Sureties for intestacy	79
Guarantee societies	80
Letters of Administration	80
Marriage Settlements	81
Legal division of property	81
Widower or widow	81
Children of intestate	81
Father, mother, brother and sisters	82
Other relatives of intestate	82
State's claim an intestate's estate	83
Illegitimacy	84
Persons of unsound mind	84
Administration of will	85
Contingent legacies	85

CHAPTER X

	<i>Page</i>
DISTRICT PROBATE REGISTRIES AND TRUSTEE INVESTMENTS	87
Customs and Excise Offices	88
Trustee investments	89

SCOTS LAW SECTION, p.103

CHAPTER I

THE IMPORTANCE OF MAKING A WILL

A GREAT deal of needless trouble is caused when people neglect to make their wills. To make a will is just as important for a woman as for a man.

A will takes effect on the death of the testator—that is, the person duly making the will—and accordingly refers to the property which the testator dies possessed of, or in any manner may become entitled to possess.

Therefore, although a man may at the present time have only property of small value, it is an important, and often an imperative, duty for him to look forward to the future and to make provision by will, as far as may be, for those who are or may become dependent on him.

Especially may this be urged in the case of a married man. If young, he, perhaps, for the time being, has not much scope for adding to capital out of income ; but if prudent he doubtless will have effected an insurance policy on his life, which will enable him to make, by will, some provision for wife and children in the event of his death from accident or other cause. Such a man should not defer his will-making until he has accumulated wealth, or firmly established a position for himself in life, or until he may be incapacitated by illness from carrying out his duties.

The foregoing remarks as to married men apply also to married women who have money or other

property of their own, or have expectations of receiving some.

Now that almost all business careers and opportunities of earning income are open to women, it cannot be superfluous to urge upon them, no less than upon men, the need of will-making.

In this book it is proposed to give, so far as possible in untechnical language instructions to enable the reader—who, for the sake of economy or other reason, does not wish to employ a solicitor—to make his own will, without any further legal advice than is contained in this small volume.

Every one, whether married or single, must have certain definite wishes as to the disposal, after his death, of his property, even if it consists only of a few personal belongings, such as watch and chain, jewellery, books, china and household furniture, or even a favourite piano.

Those wishes have no legal effect unless they are expressed in writing by means of a will, which may also name as executor a trusted relation or friend, who will see that they are carried into effect.

In the event of the death of a man or woman who has neglected to make a will, what is technically known as “an intestacy” occurs. He or she is said to have died “intestate,” and the state or property devolves to, or has to be distributed among, relations according to statute law.

If there are no near relations, the property will be forfeited to the Crown—that is, it will belong to the State.

The law relating to the distribution of the estates of intestates is mainly contained in the Administration

of Estates Act, 1925. The provisions of this Act are complicated, and may involve considerable difficulty in being carried into effect.

This adds a further argument in favour of will-making. Indeed, the neglect of any person to make a will may cause serious deprivation to those for whom he or she was really anxious to provide, and, on the other hand, funds may pass to relations not in need of financial help, or go to the Crown, as before stated.

Thus negligence, or unreasonable aversion, to make a will, may cause an irreparable wrong to those who have the first claim to assistance.

Another important matter to be borne in mind is that on the death of an intestate there are no executors or executor to look after the property and to take all proper steps with regard to the affairs. It will be necessary therefore for some relation or other person to obtain from Somerset House an official document technically known as "Letters of Administration" to the estate before any step can be taken with regard to the property.

The person to be appointed administrator of the estate or property is required by law to enter into a bond with, in almost all cases, at least two approved sureties, for a sum equivalent to double the value of the estate.

This cannot be regarded as a mere formality, as the administrator and each surety will, under the bond, become legally responsible up to the full amount (called the penalty) of the bond, for the due administration of the estate.

Naturally many prudent persons have very strong

objections to undertaking such a responsibility as suretyship under an administration bond.

Some insurance companies will undertake the responsibility of such suretyship on payment, out of the estate, of one lump sum, or a yearly premium, being a percentage on the value of the estate. Such insurance must be continued by renewed yearly premiums until the estate has been finally distributed.

In the event of there being infant children (i.e. under twenty-one) entitled to share, the state could not be finally wound up until the youngest of the children had attained the age of twenty-one years.

The expenses of obtaining "Letters of Administration" are certainly more than the ordinary expenses of obtaining what is called "Probate" of the will, a procedure which is fully explained in Chapter VII of this book.

When making a will it is proper to appoint two or more executors, although one executor or executrix (i.e. female executor) is sufficient. If all the testator's property is left to his wife absolutely, it will be convenient that she should be appointed sole executrix. But where there are children or others to be provided for, it is customary to appoint two or more executors, of whom the wife may be one.

The testator has the advantage of being able to select as his executors those in whom he can place confidence, and he has the satisfaction of knowing that his affairs will be in their hands, instead of in the hands of an unknown administrator.

The executors appointed may be relations or friends of the testator, and anyone over twenty-one can act.